

BOARD OF MAYOR AND ALDERMEN

November 19, 2002
Mayor and All Aldermen

7:30 PM
Aldermanic Chambers
City Hall, (3rd Floor)

Mayor Baines called the meeting to order.

Presentation of the Colors was made by Boy Scout Troop 290. The Troop Leader lead all present in the Pledge of Allegiance. Members of the troop were introduced.

Mayor Baines thanked them for joining the Board this evening and commended the young men present for staying with Scouting. Mayor Baines stated that there is an awful lot of peer pressure out there today to move away from the values that scouting represent and the fact that you are here tonight so proudly displaying your uniforms and the pride that you have in being a member of this Troupe which has been so much to this community and to your parish for such a long period of time you should be very proud, and on behalf of the Board of Mayor and Aldermen and the City of Manchester I want to thank you for your commitment to scouting, the values of scouting and for the wonderful commitment you make to so many worthy causes throughout our community. Stay with it, you will be very proud in years to come. I stayed with it all through high school, and when you look back you are going to be very proud that you stayed with scouting.

Alderman Thibault stated that the Scoutmaster of that troop was in Troop 135 about 35 years ago when I was a kid.

The Clerk called the roll.

Present: Aldermen Gatsas, Guinta, Sysyn, Osborne, Pinard, O'Neil, Lopez, Shea, DeVries, Garrity, Smith, Thibault, and Forest

Absent: Alderman Wihby

CONSENT AGENDA

Mayor Baines advised if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Approve under the supervision of Department of Highway

- A.** Pole Petitions from Public Service of NH and Verizon New England
#11-961 on Orchard Avenue
#11-962 on Dixwell Street

Informational, Receive and File

- B.** Communication from Dan & Jackie Curtis thanking the Board for naming the skateboard park after their son, Adam.

REFERRALS TO COMMITTEES

COMMITTEE ON FINANCE

- C.** Resolutions:

“Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Twelve Thousand Eight Hundred Seventy Seven Dollars (\$12,877.00) for 2003 CIP 210303 HIV Counseling and Testing.”

“Amending the 2002 community Improvement Program, authorizing and appropriating funds in the amount of Three Thousand Three Hundred and Five Dollars (\$3,305.00) for 2003 CIP 210403 HIV Prevention.”

“Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Two Thousand Seven Hundred Sixty Nine Dollars and Sixty One Cents (\$2,769.61) for 2003 CIP 410303 MHRA Community Policing Program.”

“Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Fifty Thousand Dollars (\$50,000) for 2003 CIP 410903 Weed & Seed Program.”

REPORTS OF COMMITTEES

COMMITTEE ON COMMUNITY IMPROVEMENT

- D.** Recommending that the Board authorize acceptance and expenditure of funds in the amount of \$12,877 (State) for the 2003 CIP 210303 HIV Counseling and Testing, and for such purpose a resolution and budget authorization has been submitted.
- E.** Recommending that the Board authorize acceptance and expenditure of funds in the amount of \$3,305 (State) for the 2003 CIP 210403 HIV Prevention, and for such purpose a resolution and budget authorization has been submitted.
- F.** Recommending that the Board authorize acceptance and expenditure of funds in the amount of \$2,769.61 (Federal) for the 2003 CIP 410303 MHRA Community Policing, and for such purpose a resolution and budget authorization has been submitted.
- G.** Recommending that the Board authorize acceptance and expenditure of funds in the amount of \$50,000 (Federal) for the 2003 CIP 410903, Weed & Seed Program, and for such purpose a resolution and budget authorization has been submitted.

- H.** Recommending that with regard to a petition to discontinue a portion of Ingraham Avenue, the Board find that a portion of Ingraham Avenue, having never been opened, built, nor used for public travel, has been released from public servitude pursuant to RSA 231:51.
- J.** Advising that it has approved a request from the Highway Department to complete work on Renard Street under the City's Chronic Drain Program.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- K.** Recommending that on Thursday evenings from 5 PM until 8 PM during the month of December, and on Christmas Eve and New Year's Eve, the City offer free on-street parking downtown.

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN GUINTA, DULY SECONDED BY ALDERMAN O'NEIL, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

Report of Committee on Community Improvement

- I.** Advising that it has directed the Planning Director to solicit bids for the sale of the City's ice skating rink, formerly utilized at Hampshire Plaza.

Alderman Garrity requested they not put the skating rink out to bid stating I think there is a real need in the City for it. There is a lot of city parks in the City and I know in the south end of Manchester a constituent of mine has a lot of good places picked out it could possible go.

Alderman Garrity moved to refer the item back to the Committee on Community Improvement for further study. Alderman Thibault duly seconded the motion.

Alderman Lopez stated the skating rink has been around a long time and we are paying \$100 now for storage and believe me when they first got this ice skating rink at the plaza we knew it would never last, its been under study for a long time, and in order to set that thing up is going to cost a lot of money at any park in the City of Manchester. So unless we are willing to pay for that I think it is a waste of time, a waste of money, when we have Dorr's Pond and other places people can go ice skating.

Mayor Baines stated most recently I had a conversation with Jane Beaulieu who is heading up an effort to purchase Bass Island for recreational purposes and she expressed some interest in trying to work maybe to try to deal with the ice rink in that area as well so I know there is some interest in it.

Alderman DeVries stated I also had a brief conversation with the architect who is involved in the design for the baseball stadium and they were expressing some interest in possibly utilizing that as part of their complex and I thought that we might want to refer that back to staff specifically, Mr. Jabjiniak to take a look and see if they are interested in making use of that purchase or whatever as part of that facility.

Mayor Baines called for a vote on the motion to refer the item back to the Committee. The motion carried.

Report of Committee on Traffic/Public Safety

- L. Recommending that parking garage rates be increased from \$56 to \$60 per month effective January 1, 2003; and further recommending that Ordinance amendment:

“Amending Section 70.57 (A) Parking Rates of the Code of Ordinances of the City of Manchester by increasing the monthly parking garage rate.”

be referred to the Committee on Bills on Second Reading for technical review.

Alderman Guinta stated this is in relation to the increase in parking garage fees from \$56 to \$60, and I voted against this in committee I was the only person who voted against it and I wanted to appeal to the full Board at this time. I understand that there are some revenue issues and budget issues that we are dealing with as a City, I prefer and I think it makes more sense at this point to take a look at what we are going to do with respect to parking management. For example, if we are going to stay with the current manager, or have a new manager, I'd like to see alternative solutions to the problem that we are having relative to parking management. I think that it's fair to give either the current manager some new guidelines, or a new manager a chance to try to create some efficiencies. In theory probably a lot of people on this Board believe that we should increase fees at this time. I think that what we should do is to try to coordinate together and create the efficiencies that a new manager or the current manager may be able to provide. We are in a time of somewhat economic uncertainty and I don't believe that we should penalize the people who pay to park in these garages because of previous subsidies. I think at the very least it's appropriate to consider what a new manager would do. I think it's fair that we give whoever manages the parking garages three to six months to prove that they can create efficiencies and maybe we can get out of the red without having to raise fees.

Alderman Guinta moved to table this item and give the new manager or current manager some time to prove themselves before we take this under advisement. Alderman Forest. A roll call vote was taken. Alderman O'Neil, Shea, DeVries, Garrity, Smith, Thibault, Sysyn, and Osborne voted nay. Aldermen Lopez, Forest, Gatsas, Guinta, and Pinard voted yea. Alderman Wihby was absent. The motion to table failed.

Alderman Sysyn moved to accept, receive and adopt the report of the Committee. Alderman O’Neil duly seconded the motion. The motion carried with Aldermen Guinta and Forest duly recorded in opposition.

Alderman Gatsas requested discussion, noting that he had thought the motion had been for discussion. Mayor Baines advised that the report had been accepted.

Alderman Gatsas moved to reconsider, noting that he had voted in favor. Alderman Guinta duly seconded the motion. The motion failed.

Alderman Gatsas asked for reconsideration of the MOU vote of the last meeting. Mayor Baines noted that he would continue with the agenda first, and the Alderman could bring the item in after the agenda was followed.

5. Mayor Baines presented nominations.

Richard Bunker to succeed Tom Robert on the Manchester Water Works term to expire January 2006.

Alderman Pinard moved to suspend the rules and confirm Richard Bunker to succeed Tom Robert on the Manchester Water Works term to expire January 2006. Alderman Guinta duly seconded the motion. There being none opposed, the motion carried.

Mr. Bunker was congratulated.

On motion of Alderman Thibault, duly seconded by Alderman O’Neil, it was voted to commend Mr. Robert for his service on the Board of Water Commission.

On motion of Alderman Thibault, duly seconded by Alderman Garrity, it was voted to recess the meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

A report of the Committee on Finance was presented recommending that Resolutions:

“Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Twelve Thousand Eight Hundred Seventy Seven Dollars (\$12,877.00) for 2003 CIP 210303 HIV Counseling and Testing.”

“Amending the 2002 community Improvement Program, authorizing and appropriating funds in the amount of Three Thousand Three Hundred and Five Dollars (\$3,305.00) for 2003 CIP 210403 HIV Prevention.”

“Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Two Thousand Seven Hundred Sixty Nine Dollars and Sixty One Cents (\$2,769.61) for 2003 CIP 410303 MHRA Community Policing Program.”

“Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Fifty Thousand Dollars (\$50,000) for 2003 CIP 410903 Weed & Seed Program.”

“Amending the FY2002 and FY2003 Community Improvement Programs, transferring, authorizing and appropriating funds in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) for FY2003 CIP 611403 Renaissance 7 Affordable Housing Project.”

ought to pass and be Enrolled.

Alderman Shea moved to accept, receive and adopt the report of the Committee. Alderman Lopez duly seconded the motion. The motion carried with Alderman O’Neil, Guinta and Garrity duly recorded in opposition.

Mayor Baines stated for Alderman Gatsas’ wishes to be affirmed and no one surprised, we just approved the Committee on Finance report, wouldn’t the motion for reconsideration have to be made at this time and not in committee.

Deputy Clerk Johnson replied that it can still be reconsidered in the Finance Committee and I would presume he will give notice at the Board level when it is adopted as well. The report will not make...

Mayor Baines stated the only thing I am saying is if the Board of Mayor and Aldermen approve something it’s approved.

Deputy Clerk Johnson replied that under the notice of reconsideration, the CIP and Finance Department will not release the funds for another meeting.

Mayor Baines stated the Chair will rule that you will make the reconsideration now for it to be considered.

Alderman Gatsas stated he was giving notice.

Deputy Clerk Johnson noted that he can give notice but it would not be considered until the next meeting.

Mayor Baines stated the Chair is ruling it has to be made now.

Alderman Gatsas stated I was going to make it both times just so that there is perfectly good understanding that I am giving notice of reconsideration.

A report of the Committee on Human Resources/Insurance was presented recommending that a request of the Public Health Director to increase the pay for a Substitute School Nurse from \$75.00 per day to \$100.00 per day be granted and approved.

On motion of Alderman O’Neil, duly seconded by Alderman Pinard it was unanimously voted to accept, receive and adopt the report.

A second report of the Committee on Human Resources/Insurance was presented recommending that proposed establishment and reclassifications of positions for the Health Department presented by the Human Resources Director as enclosed be granted and approved; and further recommending that Ordinance:

“Amending Sections 33.024, 33.025 & 33.026 (Public Health Physician/Medical Director, Health Dept. Information Technology support Specialist, and Public Health Preparedness Administrator) of the Code of Ordinances of the City of Manchester.”

be referred to the Committee on Bills on Second Reading for technical review.

Alderman Lopez moved to accept, receive and adopt the report. Alderman Shea duly seconded the motion.

Alderman Garrity stated he did not see a fiscal impact, understanding it was grant funded, but questioning if there was a fiscal impact to reclassify Mr. Rusczek.

Ms. Lamberton, Human Resources Director, advised that Fred Rusczek was not being reclassified.

Alderman Garrity asked how long the grants were funded for.

Ms. Lamberton replied three years.

Alderman Garrity asked what do we do when the grants run out.

Ms. Lamberton responded we ask for new ones.

Mr. Rusczek stated on the question as to when the grant runs out this has been included in the federal budget we understand for five years. Looking ahead down the road we don’t an end to the country’s need to improve public health and be prepared for bio-terrorism for the foreseeable future.

Alderman Shea said I noticed in looking over the pamphlet received by the aldermen from the National League of Cities, I noticed the Health Department is getting quite a bit of money over the next several years, but obviously this article brought out the fact that the

home security bill is not levying any funds for either the fire or police departments I know that this was cut out of the bill and it should be a concern because obviously where the money is being given for terrorism in terms of treating health problems there are certain problems that the fire and police departments, and I know they are going to be incorporated somewhat into your particular, but it is a concern among several municipalities, in terms of what is going to happen in terms of handling problems by the police and fire departments as far as any kind of threats. I wanted to make that comment, I'm sure your Honor is on top of that.

Mayor Baines responded yes I have been in Washington with the US Conference of Mayors lobbying on that issue. As I reported a couple of meetings ago I met with Senator Gregg, obviously he has a very important role down there with appropriations, the biggest hang up right now in Washington is where the money is going to go. The Mayor's are advocating that 75% goes directly to cities and towns, and 25% to the state. There are some in Congress that want to see all the money go to the state. The mayors' experience with that across the country if it goes to the state it very seldom gets down to where the rubber meets the road in terms of national security related to homeland security, it's with your local police, local fire, local public health and that's the real battle that's on the Hill right now on that issue. We are working very hard with that and hopefully there should be some money coming forward. I think Senator Gregg indicated early next year.

Mayor Baines called for a vote on the motion to accept the report. The motion carried with none recorded in opposition.

Alderman Lopez moved to suspend the rules and place the ordinance on its final reading at this time without referral to the Committees on Bills on Second Reading and Accounts, Enrollment and Revenue administration because they are behind the 8 ball on this.

Alderman Thibault duly seconded the motion. There being none opposed the motion carried.

Alderman Gatsas asked on the \$75 to \$100 per day for the nurses, have you inquired of the School Department that they have no problem with that in their budget.

Mr. Rusczek replied the budget amount is going to stay the same. What we are encountering now is that the \$75 per day the \$9,000 or \$10,000 that is budgeted for substitute nurses we're not spending any of that at all because we can't find anybody. Concord for example pays \$135 a day.

Alderman Gatsas stated okay, so school has no problem.

Mr. Rusczek responded no.

Alderman Shea stated I was a school principal at one time that did not have the beneficiary of having a school nurse and as a result of that I ran for mayor to get a school nurse for Hallsville School, that's why I am here today, primarily because we did not have a school nurse and the principal at that time was expected to give Ritalin and Prozac but then when the nurse, who came once a week, said you have to give kids shots here and there, I said I am not a paramedic person, so any amount of money is necessary for the safety of the children. Nurses are very essential in schools today.

Mayor Baines stated I couldn't agree with you more having been in the same situation.

Deputy Clerk Johnson clarified the previous motion and noted that a motion was needed to place the ordinance on its final reading and read by title only.

Ordinance:

“Amending Sections 33.024, 33.025 & 33.026 (Public Health Physician/ Medical Director, Health Dept. Information Technology support Specialist, and Public Health Preparedness Administrator) of the Code of Ordinances of the City of Manchester.”

On motion of Alderman Lopez, duly seconded by Alderman Devries, it was voted to read by title only and it was so done.

Alderman DeVries asked if this included the school nurse.

The Clerk noted that no ordinance was presented for the school nurse position, it could be a contractual position not requiring an ordinance and is presumably completed.

This Ordinance having had its final reading by title only, Alderman Osborne moved on passing same to be Ordained. Alderman Shea duly seconded the motion. There being none opposed the motion carried.

- 8.** A report of the Committee on Traffic was presented recommending that regulations governing standing, stopping, and parking and operation of vehicles be adopted.

On motion of Alderman Sysyn, duly seconded by Alderman Osborne, it was voted to accept, receive and adopt the report.

- 11.** Communication from Mayor Baines requesting that the date of the March 4, 2003 Board meeting be changed to March 5, 2003 to avoid a conflict with the Chamber of Commerce's annual dinner.

Alderman Smith so moved to change the meeting date. Alderman Thibault duly seconded the motion.

Alderman O'Neil commented that he hoped it did not become the norm of moving our meetings for other events in the City.

Mayor Baines stated normally we don't we have moved it at special requests of individual Board members from time to time, but the situation with this is that the Chamber does try to book it so it is not a night the Board of Mayor and Aldermen are meeting, to get the guest speak they had to.

Alderman O'Neil stated so it would not become the norm that we would move the meetings.

Mayor Baines replied no, I think for something like an election.

Mayor Baines called for a vote. The motion carried.

Alderman Lopez referred back to the \$75 on the nurses, because it is important it is a safety issue, so suspending the rules would be in order.

Discussion ensued where it was concurred that the intent was immediate and there being no ordinance presented it appeared suspending the rules was not required.

12. Complaint from residents in the vicinity of 209 Belmont Street regarding a neighbor having at least 25 dogs and 12 cats.

Mayor Baines requested clarification from the clerk as to why this was on the agenda. Deputy Clerk Johnson advised that this item was taken in by Alderman Shea who could speak to it if you wish, it was requested that it be placed on the agenda, there was some discussion among some of the aldermen, the City Solicitor is familiar with it and can probably tell you what he advises.

Solicitor Arnold recommended that it be referred to staff for review and recommendation back to the Board.

Alderman Forest so moved to refer the item to staff for review and recommendation back to the Board. Alderman Thibault duly seconded the motion.

Alderman Shea stated at present there is no limit as to the amount of household pets that people might have and there is a concern on the part of the constituents around that residence. The fact that there are several dogs and other animals, it's not so much they are creating problems for the neighbors and I think if the city staff were to consider it they could probably come up with some recommendation concerning what is a feasible number.

Nobody opposes people having pets, but when they become rather extensive and there is no

limit to the amount of pets somebody can have without necessarily violating any city ordinance cause there is no city ordinance regarding the number of pets that one can have. This is to have the city staff look at the matter and come up with a recommendation.

Deputy Clerk Johnson requested clarification of the “City Staff” referred to in the motion. It was concurred that staff would include Solicitor, Health, Planning, Building, City Clerk and Police.

Mayor Baines called for a vote. The motion carried with none recorded in opposition.

13. Ordinance:

“Amending Section 70.82 Immobilization of Motor Vehicles for Non-Payment of Parking Fines of the Code of Ordinances of the City of Manchester by increasing the booting fine.”

On motion of Alderman Pinard, duly seconded by Alderman Thibault, it was voted to read by title only and it was so done.

This Ordinance having had its second reading by title only Alderman Sysyn moved on passing same to be Enrolled. Alderman Forest duly seconded the motion. The motion carried with none recorded in opposition.

On motion of Alderman Shea, duly seconded by Alderman Thibault, it was voted recess the meeting to allow the Committee on Accounts, Enrollment, and Revenue Administration to meet.

Mayor Baines called the meeting back to order.

A report of the Committee on Accounts, Enrollment and Revenue Administration was presented advising that Ordinance:

“Amending Section 70.82 Immobilization of Motor Vehicles for Non-Payment of Parking Fines of the Code of Ordinances of the City of Manchester by increasing the booting fine.”

was properly Enrolled.

On motion of Alderman Shea, duly seconded by Alderman DeVries, it was voted to accept, receive and adopt the report of the Committee.

17. Resolutions:

“Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Twelve Thousand Eight Hundred Seventy Seven Dollars (\$12,877.00) for 2003 CIP 210303 HIV Counseling and Testing.”

“Amending the 2002 community Improvement Program, authorizing and appropriating funds in the amount of Three Thousand Three Hundred and Five Dollars (\$3,305.00) for 2003 CIP 210403 HIV Prevention.”

“Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Two Thousand Seven Hundred Sixty Nine Dollars and Sixty One Cents (\$2,769.61) for 2003 CIP 410303 MHRA Community Policing Program.”

“Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Fifty Thousand Dollars (\$50,000) for 2003 CIP 410903 Weed & Seed Program.”

On motion of Alderman O’Neil, duly seconded by Alderman Shea, it was voted to dispense with the reading of the resolutions by titles only.

Alderman Pinard moved that the Resolutions pass and be Enrolled. Alderman Sysyn duly seconded the motion. There being none opposed, the motion carried.

TABLED ITEMS

- 18.** Communication from Alderman Osborne regarding changing the rules to limit speaking times to allow all aldermen to discuss a subject before the Board. (Tabled 11/6/2002 pending submission of new language by City Solicitor.)

On motion of Alderman Osborne, duly seconded by Alderman Shea, it was voted to remove this item from the table.

Alderman Osborne moved that the new language submitted by the City Solicitor be approved as a new rule, Rule 27. Alderman Shea duly seconded the motion.

Alderman Gatsas stated I think that in the three years that I have been here Your Honor, that the little scorecard that you keep for allowing aldermen to speak before another alderman has an opportunity to speak for the second time, I commend you for the good job that you do. I don’t think that this Board needs to limit anybody from speaking or telling them what order it should happen in. I don’t think that that is what we are elected to do, that we need to have this Rule 27 in effect, it’s not been in effect for as long as there has been a Board in the City of Manchester and I don’t know why we need to take this up now.

A roll call vote was taken. Aldermen Garrity, Thibault, Gatsas, Guinta, and DeVries voted nay. Aldermen Smith, Forest, Sysyn, Osborne, Pinard, O'Neil, Lopez, and Shea voted yea. Mayor Baines vetoed the action stating that he would enforce the intent of that rule henceforward. I think we have been doing a good job at it at least since it was introduced, and that will allow us to still have some flexibility, I will enforce the intent of the rule going forward.

19. Report of the Committee on Lands and Buildings recommending that a request to approve a proposed formal agreement between the Welfare Department and Manchester Emergency Housing be referred to the full Board without recommendation.
(Tabled 10/01/02)

This item remained on the table.

20. Report of the Committee on Human Resources/Insurance recommending that the Mayor's proposed reorganization of the Assessor's Office, as enclosed herein, be approved and that same be referred to the Committee on Bills on Second Reading for ordinance preparation and technical review.
(Tabled 10/15/02).

This item remained on the table.

21. Report of the Committee on Human Resources/Insurance recommending that the Mayor's proposed reorganization for the Elderly Services Department, Office of Youth Services, and the Health Department, as enclosed herein, be approved and that same be referred to the Committee on Bills on Second Reading for ordinance preparation and technical review.
(Tabled 10/15/02)

This item remained on the table.

22. Discussion relative to informing Verizon that if an amicable agreement with the City of Manchester regarding paying of bridge repairs is not made Verizon will be notified that they will have to remove their cables from the bridge.
(Tabled 10/15/02)

This item remained on the table.

NEW BUSINESS

Alderman Gatsas stated I would like to make a motion for reconsideration on the baseball proposal or the Memorandum of Understanding, I still have not gotten sufficient details from the Finance Office telling me that the \$250,000 that is at risk by the baseball team is only at risk and the City doesn't have to procure any sort of payment if the project goes forward or doesn't go forward.

Mayor Baines stated that the Chair is ruling that a motion for reconsideration will not be accepted, I am passing out to you at this time an opinion from City Solicitor which I will read into the public record

“This is in response to your request for the opinion of this office as to whether a motion for reconsideration may be made relative to the feasibility study on baseball.

The Board of Mayor and Aldermen approved the Memorandum of Understanding between the City of Manchester, Manchester Downtown Visions, LLC and 6 to 4 to 3, LLC and authorized you to execute the Agreement on behalf of the City of Manchester at its meeting held on November 13, 2002. That Agreement was executed by all parties on November 14, 2002.

As was explained to the Board of Mayor and Aldermen, section 14.1 of that Agreement obligates the City, through its Finance Department, to engage a consultant(s) to “prepare a feasibility study”. (See section 14.1)

It is the opinion of this office that the Agreement has been lawfully executed and its terms are binding on the parties. The individual obligations set forth in the Agreement may not be unilaterally reconsidered without causing a breach of the Agreement.”

Alderman Gatsas stated I believe you and I met on the 14th and at no time when I told you that I was making a motion for reconsideration did you ever tell me that these agreements were executed. You never told me that these agreements were executed, the day I told you I was making a motion for reconsideration.

Mayor Baines stated, I don’t recall that Alderman Gatsas.

Alderman Gatsas stated that I told you that I was making a motion for reconsideration.

Mayor Baines stated you mentioned you were reconsidering. At that time I don’t think at that point I had talked to the City Solicitor in terms of whether it could be reconsidered or not.

Alderman Gatsas stated Your Honor, I think that the City being at risk for \$250,000 and the Finance Officer calling me under your recommendation to tell me that \$250,000 would be paid, obviously somebody understood that I was making a motion for reconsideration.

Mayor Baines stated no I totally understood that.

Alderman Gatsas stated so at no time did the City Finance Department tell me that the agreements were executed.

Mayor Baines stated well the agreements have been executed.

Alderman Gatsas stated I think it is unfair that you would take the position that I would give you in confidentiality telling you that I was going to reconsider this matter because I felt strongly that the City was at risk for \$250,000. The Finance Officer called me, tells me this

evening that he was going to check with legal counsel on the bonding to make sure that that was understood that the \$250,000 was to be paid under the proceeds of the following of the project of the hotel and the condos and at no time did anybody tell me that. Your Honor I feel it's been breached. I think that it gives me a right for the motion of reconsideration. You may not want to accept it but I think this Board can over-rule your consideration.

Mayor Baines stated if there has been any misunderstandings I apologize for that.

Alderman Gatsas stated there has been no misunderstandings Your Honor, you understood exactly where I was because you and I had a conversation in your office about it.

Mayor Baines stated it was subsequent to that that I asked the City Solicitor to be prepared to advise this Board if there were a motion to reconsider what the legal situation of the City would be. That's called do the right thing and being prepared.

Deputy Finance Officer Sherman stated I talked to Alderman Gatsas, it was Friday the 15th that I was asked to give Alderman Gatsas a call relative to this \$250,000. After our conversation I did call Walter McCabe who I'm sure you remember from last Wednesday night is representing bond counsel. Those of you who listened to Walter talk Wednesday will fully understand that he was out for a couple of days on Thursday and Friday. I had fully expected to, when I talked to him yesterday, that I would have a letter for tonight. This is dealing with section 14.2 in the \$250,000. What I asked Mr. McCabe to do is submit a letter of clarification. What the letter will say in essence is that the \$250,000 only gets paid if a number of events happen. One, the stadium development does not go forward, if the stadium development does not go forward, but it is not the fault of the stadium developer. So if the stadium developer walks out right now he does not get that \$250,000. it has to be a reason other than a default of himself. The \$250,000 still will not be paid unless there are sufficient revenues generated from the site. So if the ancillary development around the stadium does not proceed and there is no revenues generated from the site the City is still not liable for the \$250,000. And again, the \$250,000 gets paid from the revenues from the site only after the City has recouped all of its expenses. So we generate the revenues from the site, we recover our expenses and at that point we would reimburse the stadium developer for the work that they have done that is now being used to the benefit of the land developer.

Alderman Gatsas stated would you agree that that is nowhere to be found in that Agreement.

Mr. Sherman responded no, I would not agree to that alderman. I think section 14.2 the reimbursement development costs is pretty clear that that is what that says.

Alderman Gatsas asked why did you tell me that you would get an opinion from legal counsel to make sure that does not happen.

Mr. Sherman stated actually you asked me if I could provide you with some support to my position on that. In order to provide you some support my preference is to call bond counsel and have him submit a letter of clarification. And I think 14.2 is very clear in what it says.

Alderman Gatsas stated so it is your understanding that if the red sox decide that Manchester is not a site that they want to participate in, and that the project does not go forward. Your Honor, I will ask you this question. Is it your understanding that if the baseball project does not go forward, the development does not go forward, that this city is not at risk for \$250,000.

Mayor Baines stated that is correct.

Alderman Gatsas stated and at no time will we pay the developer \$250,000 if that doesn't happen.

Mayor Baines stated that is what I have been advised by the people who have provided the contract .

Mr. Sherman stated unless we get revenues from the site sufficient to make those payments.

Alderman Gatsas stated if the project does not go forward.

Mr. Sherman stated that is correct.

Alderman Gatsas stated because the red sox refuse to come to Manchester, and the project doesn't move forward, you are telling me your Honor that you are not going to put this City at risk for \$250,000.

Mayor Baines replied yes, absolutely right.

Alderman Gatsas stated now explain to me why, and maybe you should step down so we can debate this, but I think you should explain to me why Your Honor the \$35,000 has anything to do with the Memorandum of Understanding because it's this Board's money and this Board's proposal to go forward. So how can you possible say, because you wouldn't accept my motion that night. Obviously why is this part of that agreement.

Mayor Baines responded Alderman, in all due respect, this was part of the agreement and aldermen were brought in one by one, I don't know if you came in, to have all parts of the agreement explained to them. Did you come in and take advantage of the opportunity to sit down with all the people involved with this project, to go through all the items that were in the agreement.

Alderman Gatsas stated Your Honor, I'm questioning the \$35,000 feasibility study.

Mayor Baines stated that was in the Memorandum that this Board approved.

Alderman Gatsas stated I voted against it the first time. I have no idea why this City would spend \$35,000 until we are awarded the Red Sox franchise.

Mayor Baines stated the answer to your question is because the aldermen voted for this 13 to 1. You had a dissenting opinion the other 13 aldermen said it was okay.

Alderman Gatsas noted that was not the vote; that Alderman Garrity voted the dissenting vote. Alderman Gatsas stated I voted in favor of it so that I could make a motion for reconsideration that I brought to you and talked to you about on the 14th.

Mayor Baines stated correct.

Alderman Gatsas stated and obviously what you did was go to the City Solicitor so that you could by your own judgement not accept the motion for reconsideration. That's what you did Your Honor.

Mayor Baines stated it's unfortunate that you would categorize something like that. I consult with the City Solicitor sometimes a half a dozen times during the day. When there is an issue that I know is going to come before the Board, I talk to the City Solicitor would you please research it so we have an opinion on record. Also the fact that he wasn't going to be here tonight, by his signed document, whether in fact reconsideration could be adopted. That's a prudent thing to do, if you know something is coming forward that we have a legal opinion that's on record from the City Solicitor's office. So I don't apologize for being prepared in consulting the City Solicitor and I reject the characterization.

Alderman O'Neil stated I believe all the feasibility study is doing is actually a safeguard for the City of Manchester to confirm that the revenue numbers that the baseball owner is using to bring this project forward are actually accurate numbers. And it actually, in my opinion protects us. Secondly I just think we need to clarify it's a Red Sox' sign off that the City is looking for, not necessarily a Red Sox team. It's just the Red Sox signing off that they will allow minor league baseball in the City of Manchester. It may not necessarily be a Red Sox team.

Alderman Shea stated there is no one in the City that's looked after the taxpayers money more meaningful that Alderman Shea. Believe me. And my judgement in this matter is that we are not spending \$30,000 of taxpayers money. Let's get that clear. No taxpayers' money Your Honor is being used for this project. These are projects and Bill Jabjiniak can substantiate this, they are not taxpayers money. We are not taking \$30,000 that we can use

for schools or for the highway department or for the police department. We are not using funds that are taxpayers money. Secondly it's a mischaracterization to say that because we voted for this project that we are spending \$250,000 on November 19, 2002. We are spending zap. Nothing. This is a much better project, better organized, better regulated than the civic center ever thought of being and I can't understand how people who vote for the civic center can be so scrupulous about looking after taxpayers monies in this stage of the game when all of a sudden we have a project that could bring unusual type of economic development. If we had the same kind of economic development attached to the civic center I would have been leading the charge with a white flag. But we had none. We had absolutely no guarantee that economic development would be forthcoming, so I say let's give this a chance to work. We have about eight different processes to go through. They were explained by Randy. He's giving all the information possible. If we jump hurdles now we're starting the race before we even began it. We're only in the first lap of an eight lap race and so let's give it a chance to go.

Mayor Baines stated the aldermen voted 13 to 1 to authorize the execution of the documents, which also included the feasibility study. Am I correct on that City Solicitor.

Deputy Solicitor Arnold replied absolutely.

Mr. Sherman stated I believe it was 12 to 1 but yes.

Mayor Baines stated that's true but Alderman Forest weighed in by mail on this issue.

Alderman Garrity stated the \$35,000 funding for the feasibility study. That's coming out of airpark funds, is that right.

Mr. Sherman responded yes.

Alderman Garrity stated is that from the sale of land at the airport.

Mr. Sherman responded up at the Air Park correct.

Alderman Garrity stated that the taxpayers owned, was it city land.

Mr. Sherman stated no, the Housing Authority controls that. The City put up some money to do some infrastructure work.

Alderman Gatsas stated I'm back to the original point. I'm certainly am miffed that me making a comment to you would bring this letter forward. And if you want to say it didn't, and if I didn't say anything to you about it and told you how I felt about the project then you

would have never gone to the City Solicitor for this understanding. You would have never done it and I made a mistake.

Mayor Baines stated in all due respect, if I here that there may be a motion for reconsideration I want to explore would it be allowable and I asked the City Solicitor for an opinion. I'd rather come to a meeting having done my homework on information. I do not apologize for that. I heard comments not only from you but from others that there might be a reconsideration this evening and I would continue to follow up on anything to ask the City Solicitor to be prepared. And the only reason it's in writing is because Tom Clark was not going to be here tonight. Tom Arnold was prepared to answer it as well. So I do not apologize to you or anybody else for being prepared. Unless there is a motion on the floor we are going to move on.

Alderman Gatsas stated the Board can take up your position, we can vote on that, I can appeal to the Board and I make that motion.

Alderman Garrity asked what the motion was.

Mayor Baines requested clarification on the procedure of the City Solicitor.

Deputy Solicitor Arnold stated it would be to appeal your ruling that you are not going to accept the motion for reconsideration to the full Board. The Board would then vote on the motion for reconsideration.

Deputy Clerk Johnson noted they would vote on the appeal first.

Deputy Solicitor Arnold stated you would vote on the appeal first.

Mayor Baines noted Alderman Gatsas had moved to appeal the ruling to the Board.

Alderman Garrity duly seconded the motion.

Alderman O'Neil stated with all due respect to my colleague from Ward 2 we have a legal opinion that to do anything else puts us in a bad position, so I would, with respect, ask my colleagues from Wards 2 and 9 to withdraw their motion.

Alderman Gatsas stated with all due respect to my colleague, Alderman O'Neil, I think this is just a point. I think that if the Board wants to rule down my motion of reconsideration they can do that after my appeal to this Board. I don't think its right for any alderman on this Board to be caught in this position, so I'm appealing to this Board, and if you want to come back on my motion for reconsideration and not vote for it that's fine, I will understand that and can appreciate that.

Mayor Baines called for a vote, commenting the motion failed, and Alderman Gatsas requested a roll call.

In response to comments, Deputy Clerk Johnson clarified that a no vote means that the Mayor's ruling would be upheld and the motion for reconsideration would not be accepted. In response to further questions Deputy Clerk Johnson advised that the motion on the floor is to appeal the Mayor's ruling that the motion for reconsideration would not be accepted. So therefore, a yes vote will then overrule the Mayor and allow the motion to come on the floor; a no vote will uphold the Mayor's parliamentary ruling and the motion will not come on the floor for reconsideration.

A roll call vote was taken. Aldermen Gatsas and Garrity voted yea. Aldermen Guinta, Sysyn, Osborne, Pinard, O'Neil, Lopez, Shea, DeVries, Smith, Thibault, and Forest voted nay. Alderman Wihby was absent. The motion failed.

Alderman Lopez commented that Richard Bunker has mentioned that the food bank is in need of Turkeys for Thanksgiving and if anybody can help them we'd appreciate it. They are about 2,500 turkeys short.

Alderman Pinard commented that the day after Thanksgiving they were lighting the Christmas Tree at Massabesic Lake, the businesses in the area are supporting it. There is all kinds of activities going on Thanksgiving Parade, lighting of the tree, and the Salvation Army Christmas Show on Sunday all on the weekend.

Mayor Baines stated he wished to congratulate Suzie Q's Restaurant on the west side, Alderman Lopez and I attended they provided free breakfast for all veterans on that day and it was a nice gesture by that business.

A report of the Committee on Lands and Buildings was presented recommending that the Board of Mayor and Aldermen authorize the City Solicitor to offer the amount of \$10,000 in total for five lots contiguous to Wolfe Park. The Committee notes that the owner of such property has expressed an interest in disposing of the parcels to the City. The parcels abut a paper street where the present fencing of the outfield is located.

On motion of Alderman Thibault, duly seconded by Alderman Smith, it was voted to accept, receive and adopt the report. Alderman Garrity was duly recorded in opposition.

A second report of the Committee on Lands and Buildings was presented recommending that the City advise the State Department of Transportation (DOT) that is interested in acquiring the State owned property at the intersection of Bridge Street and Mammoth Road referred to in a communication dated November 7th from the DOT. The Committee further recommends that the City Staff (MEDO, Planning & Finance) be directed to explore funding for such acquisition; that the Board of Assessors review the value and discuss same with the Department of Transportation; and that the City Solicitor assist staff in carrying out the City's interest in such acquisition of property.

On motion of Alderman DeVries, duly seconded by Alderman Shea, it was voted to accept, receive and adopt the report.

Communication from City Clerk requesting approval to apply for a grant from the Bean Foundation for a project historian.

On motion of Alderman Thibault, duly seconded by Alderman Lopez, it was voted to approve the request.

Deputy Clerk Johnson noted there was a resolution that came out of Finance and was recommended ought to pass and be enrolled and presented same.

Resolution:

“Amending the FY2002 and FY2003 Community Improvement Programs, transferring, authorizing and appropriating funds in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) for FY2003 CIP 611403 Renaissance 7 Affordable Housing Project.”

On motion of Alderman DeVries, duly seconded by Alderman Osborne, it was voted to read by title only and it was so done.

Alderman Thibault moved that the Resolution pass and be Enrolled. Alderman DeVries duly seconded the motion. The motion carried with Aldermen Gatsas duly recorded in opposition.

Alderman Gatsas gave notice for reconsideration.

Deputy Clerk Johnson noted the last item from the Clerk is a resolution relating to the Charter Commission. The law requires that an account be established in the amount of \$100, obviously the Board could appropriate more at any time.

Mayor Baines stated this is just to comply with the law we'll actually be coming back with a budget for the Charter Commission at a later date, but the law requires that we at least establish an account with a budget of \$100.00.

Resolution:

“Authorizing the Finance Officer to effect a transfer of One Hundred Dollars (\$100.00) from Contingency to Charter Commission.”

On motion of Alderman DeVries, duly seconded by Alderman Shea, it was voted to read the Resolution by title only.

On motion of Alderman Smith, duly seconded by Alderman Pinard, it was unanimously voted to transfer the funds and adopt the resolution.

Deputy Clerk Johnson noted that the Clerk’s office had forwarded a communication regarding the charter commission, the law also requires office space and public meeting space. We can accommodate the public meeting space, but I don’t know where the office space is going to be located, I’m not sure if anyone has been assigned to do that for them.

Mayor Baines commented that he thought it might be in Leo’s office but no one had told him yet.

Mayor Baines advised that he was calling for a special meeting, joint meeting, of the Board of Mayor and Aldermen and the Board of School Committee. It will be held next Tuesday evening at 6:00 PM at the Corporate Offices of Public Service Company of New Hampshire, they are located at Energy Park off of Commercial Street, this will be a good opportunity for us to see this entity, they are excited about hosting a meeting down there. We are also having all of the department heads present and also inviting union presidents. I am going to outline the financial situation of the City for the next fiscal year and moving forward.

Alderman Shea asked when we have meetings such as that we go in cold, is there such a thing as having some kind of a prepared agenda.

Mayor Baines stated it was just going to be a presentation, we are going to give you the financial situation, looking at issues like the tax base, revenues, the tax situation, projected expenditures, contract obligations, just to give a financial overview of the city.

Alderman Garrity asked if the Mayor’s office had a chance to get together with Alderman Lopez about his proposal of freezing positions.

Mayor Baines stated I have frozen all positions in my authority as Mayor. We are in the process of analyzing all positions. We have had probably three or four meetings to date and we are going to be finalizing most of the decisions within the next few days and which positions that I will be releasing.

Alderman Garrity asked if the Mayor intended to release that in the next few days.

Mayor Baines responded yes.

Alderman O'Neil stated they were moving along and he hated to bring up a sore subject but if they didn't they'd be in trouble and that was the discussion from the last several meetings on the parking garage contract. And if we don't do something my understanding is we don't have a contract after December 7th.

Alderman Sysyn stated at the last meeting Alderman Wihby asked for reconsideration and I don't know if we can do it tonight.

Mayor Baines asked the procedure since Alderman Wihby was not present.

Deputy Clerk Johnson advised that any alderman who had voted in the affirmative could also ask for reconsideration at this time.

Alderman O'Neil stated we don't have a contract December 7th.

Mayor Baines stated they had not had a contract for several years.

Deputy Clerk Johnson noted that the Board had authorized extensions.

Mayor Baines noted his point was they had not had a written contract for seven years.

Mayor Baines asked if there was a meeting of the Traffic Committee scheduled, and commented that Alderman O'Neil had requested information.

Alderman O'Neil noted he had not received the information.

Alderman Lopez stated the date was December 7th and the Board would meet on December 2nd so we can solve it then.

Mayor Baines stated unless there was a motion he would leave it to the next meeting.

Alderman O'Neil stated I think we need to bring closure to this.

Mayor Baines stated we need to get you the information that you requested.

Alderman O'Neil stated in two weeks, I don't believe it exists and if you look at the minutes of the meeting which hopefully all the members received, the gentleman from Republic said I don't recall Republic ever made a claim that we could save expenses or increase revenues.

That's what the gentleman said at the Traffic Committee. I'm not sure where this \$150,000 came from but.

Mayor Baines stated let's take this up at the December 2nd meeting.

Alderman Shea stated it disturbs me sometimes when I read in the paper the fact that contractual agreements are being made and they seem to know what the agreements and we are suppose to have confidentiality. Both with the baseball situation and also with the contractual agreements. We are going to be discussing contractual agreements after this meeting, so I don't know if we have somebody that leaks information. When a reporter calls and we are suppose to be under the guise of being confidentiality we should follow that rule Your Honor. I don't believe that we should read in the newspaper something that we are suppose to have confidential. On the envelopes we're given it says "confidential" so somehow or other the press gets information that's leaked to them by someone, somehow, and that's not right.

Mayor Baines stated sometimes the press has it before we get the envelope that says "confidential" so.

Alderman Shea stated that disturbs me because I was brought up that you should trust everyone and the reporter calls me and I say 'I have no comment' as other aldermen should do and other people in city government should do.

24. Communication from the Chief Negotiator requesting to meet with the Board for a negotiation strategy session.

On motion of Alderman Thibault, duly seconded by Alderman Forest, it was voted to recess the regular meeting for a negotiation strategy session with the Chief Negotiator.

Mayor Baines called the meeting back to order noting the following Aldermen were now present:

Aldermen Lopez, Shea, DeVries, Garrity, Smith, Thibault, Forest, Sysyn, Osborne, Pinard, and O'Neil

Chief Negotiator Hodgen stated a motion would be in order for the Board to waive Rule 26 and ratify the tentative agreement with the AFSCME Health bargaining unit effective this date.

Alderman Thibault so moved to suspend the rules waiving Rule 26 and ratify the tentative agreement with AFSCME Health bargaining unit effective November 19, 2002. Alderman Pinard duly seconded the motion. There being none opposed the motion carried.

There being no further business to come before the Board, on motion of Alderman Smith,
duly seconded by Alderman Garrity, it was voted to adjourn.

A True Record. Attest.

City Clerk